

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JAMES PAUL AERY,

Civil No. 20-055 (JRT/ECW)

Plaintiff,

v.

ORDER

CONNOR CREMENS

Defendant.

James Paul Aery, Beltrami County Jail, 626 Minnesota Avenue Northwest, Bemidji, MN 56601, *pro se* plaintiff.

Jacqlyn Warner, **DAKOTA COUNTY ATTORNEY'S OFFICE**, 1560 Highway 55, Hastings, MN 55033, for defendant.

Plaintiff James Paul Aery was arrested and detained by the Apple Valley police and prosecuted by Dakota County. The criminal charges against him were dismissed and he filed this action against Defendant Connor Cremens, the Dakota County prosecutor, alleging violations of 42 U.S.C § 1983 and various state law claims. The Court dismissed his claims without prejudice¹ on March 30, 2021. (Order, Mar. 30, 2021, Docket No. 68.) Aery has now filed what he has termed a “Motion to Assign Master Post Termination” which can liberally be construed as either a motion to reconsider under this District’s Local

¹ Without prejudice means that the individual is not prohibited from filing the case again if the claim can be properly supported.

Rule 7.1(j) or a motion to alter or amend the judgment under Federal Rule of Civil Procedure Rule 59(e).

Local Rule 7.1(j) allows a party to seek permission from the Court to file a motion to reconsider if the party can show compelling circumstances. Aery has failed to demonstrate that compelling circumstances exist. His assertions that the Court was wrong to dismiss this action are not sufficient.

Federal Rule of Civil Procedure Rule 59(e) permits a party to file a motion to alter or amend a judgment no later than 28 days after entry of that judgment. In order for Aery to file a motion under Rule 59(e) he would have had to submit that motion no later than April 28, 2021. Since he is filing this motion many months after entry of the judgment, his motion under Rule 59(e) is untimely.

The Court dismissed Aery's claim without prejudice, meaning Aery is entitled to file a new action against Defendant reasserting the claims he brought in this action. If he were to file a new action, however, Aery would need to correct the errors identified by the Court in its Order or face dismissal again.

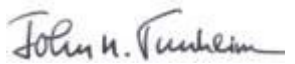
In sum, the Court will deny Aery's motion to reconsider its Order dismissing the case.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Motion to Assign Master Post Termination [Docket No. 71] is **DENIED**.

DATED: December 27, 2021
at Minneapolis, Minnesota.



JOHN R. TUNHEIM
Chief Judge
United States District Judge